

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ALBERTO VELA CORTEZ,)
)
Petitioner,) 1:15CV787
v.) 1:09CR34-1
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

On September 22, 2017, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 130, 131.) Petitioner timely filed objections (Doc. 134) to the Recommendation.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a *de novo* determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the previous stay based on Beckles v. United States, 580 U.S. ___, 137 S. Ct. 886 (2017) is lifted, that Respondent's Motion to Dismiss (Doc. 92) is **GRANTED**, that Petitioner's motion (Doc. 72) and supplement (Doc. 97) to vacate, set aside, or correct sentence are **DENIED**, and

that this action be, and the same hereby is, dismissed with prejudice. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued. A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 23rd day of February, 2018.

William L. Ostan, Jr.

United States District Judge